



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

July 28, 1953

Hon. Bill J. Cornelius
County Attorney
Marion County
Jefferson, Texas

Letter Opinion No. MS-73

Re: Authority of the Commissioners' Court to reimburse the actual expenses of officers who are compensated on a fee basis.

Dear Mr. Cornelius:

Your request for an opinion is as follows:

"Is the Commissioners' Court of Marion County, Texas, authorized to reimburse all county officials for their actual expenses of office, or, are such officers as are compensated on a fee basis required to deduct their expenses from their excess fees?"

Marion County has a population of 10,172 inhabitants according to the 1950 Federal Census and its Commissioners' Court has elected to compensate its county officials on a fee basis. Section 61 of Article XVI of the Constitution of Texas places the sheriff on a salary basis.

Subdivision (a) of Article 3899, Vernon's Civil Statutes, requires that the necessary expenses of a county officer on a fee basis shall be paid out of the fees earned by him.

Article 3891, Vernon's Civil Statutes, reads, in part, as follows:

"Each officer named in this Chapter shall first out of the current fees of his office pay or be paid the amount allowed him under the provisions of Article 3883, together with the salaries of his assistants and deputies, and authorized expenses under Article 3899, and the amount necessary to cover costs of premium on whatever surety bond may be required by law. If the current fees of such office collected in any year be more than the amount needed to pay the amounts above specified, same shall be deemed excess fees, . . ."

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It is our opinion that a county cannot reimburse a county officer compensated on a fee basis for the actual and necessary expenses incurred by him in the conduct of his office. Each officer must pay his expenses out of the fees of his office. Subdivision (a) of Article 3899, V.C.S.

Yours very truly,

JOHN BEN SHEPPERD
Attorney General

By
William M. King
Assistant

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